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Agenda item 5
Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory

Algeria, Bahrain, Bangladesh, Brunei Darussalam, Cuba, Djibouti, Egypt, Indonesia, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mauritania, Morocco, Namibia, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Somalia, South Africa, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates, Yemen and Palestine: draft resolution

Advisory Opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, including in and around East Jerusalem

The General Assembly,

Guided by the principles enshrined in the Charter of the United Nations,

Considering that the promotion of respect for the obligations arising from the Charter and other instruments and rules of international law is among the basic purposes and principles of the United Nations,

Recalling General Assembly resolution 2625 (XXV) of 24 October 1970, on the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,

Reaffirming the illegality of any territorial acquisition resulting from the threat or use of force,

Recalling the Regulations annexed to the Hague Convention respecting the Laws and Customs of War on Land, of 1907,[1]

Recalling also the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,[2] and Protocol I Additional to the Geneva Conventions,[3]

[1] See Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).
[2] United Nations, *Treaty Series*, vol. 75, No. 973.
[3] Ibid., vol. 1125, No. 17512.

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Recalling further the International Covenant on Civil and Political Rights,[4] the International Covenant on Economic, Social and Cultural Rights[4] and the Convention on the Rights of the Child,[5]

Reaffirming the permanent responsibility of the United Nations towards the question of Palestine until it is resolved in all aspects in a satisfactory manner on the basis of international legitimacy,

Recalling relevant Security Council resolutions, including resolutions 242 (1967) of 22 November 1967, 338 (1973) of 22 October 1973, 446 (1979) of 22 March 1979, 452 (1979) of 20 July 1979, 465 (1980) of 1 March 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980, 904 (1994) of 18 March 1994, 1073 (1996) of 28 September 1996, 1397 (2002) of 12 March 2002, 1515 (2003) of 19 November 2003 and 1544 (2004) of 19 May 2004,

Reaffirming the resolutions of its tenth emergency special session on illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory,

Reaffirming also the most recent resolution of the fifty-eighth session of the General Assembly, resolution 58/292 of 6 May 2004, on the status of the Occupied Palestinian Territory, including East Jerusalem,

Reaffirming further the right of the Palestinian people to self-determination, including their right to their independent State of Palestine,

Reaffirming the commitment to the two-State solution of Israel and Palestine, living side by side in peace and security within recognized borders, based on the pre-1967 borders,

Recalling its resolution ES-10/13 of 21 October 2003, in which it demanded that Israel stop and reverse the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem,

Recalling also its resolution ES-10/14 of 8 December 2003, in which it requested the International Court of Justice to urgently render an advisory opinion,

Acknowledging with appreciation the receipt of the Advisory Opinion of the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*,[6] rendered on 9 July 2004,

Taking note in particular of the fact that the Court replied to the question put forth by the General Assembly in its resolution ES-10/14 as follows:[7]

"A. The construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law;

"B. Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein

[4] See resolution 2200 A (XXI), annex.

[5] Resolution 44/25, annex.

[6] A/ES-10/273 and Corr.1.

[7] Ibid., para. 163.

situated, and to repeal or render ineffective forthwith all legislative and regulatory acts relating thereto, in accordance with paragraph 151 of this Opinion;

"C. Israel is under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem;

"D. All States are under an obligation not to recognize the illegal situation resulting from the construction of the wall and not to render aid or assistance in maintaining the situation created by such construction; all States Parties to the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 have in addition the obligation, while respecting the United Nations Charter and international law, to ensure compliance by Israel with international humanitarian law as embodied in that Convention;

"E. The United Nations, and especially the General Assembly and the Security Council, should consider what further action is required to bring to an end the illegal situation resulting from the construction of the wall and the associated regime, taking due account of the present Advisory Opinion."

Taking note of the Court's conclusion that the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, have been established in breach of international law,

Considering that acceptance of the Advisory Opinions issued by the International Court of Justice is essential to the rule of law and reason in international affairs,

1. *Accepts* the Advisory Opinion of the International Court of Justice of 9 July 2004 on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*,[6] including in and around East Jerusalem;

2. *Demands* that Israel, the occupying Power, comply with its legal obligations as determined in the Advisory Opinion;

3. *Demands* that all States Members of the United Nations comply with the legal obligations as determined in the Advisory Opinion;

4. *Calls upon* all States Parties to the Fourth Geneva Convention of 1949[2] to ensure compliance by Israel with international humanitarian law, and invites the Government of Switzerland, in its capacity as depositary of the Geneva Conventions, to conduct consultations and to arrange for the resumption of the Conference of High Contracting Parties on the matter;

5. *Requests* the Secretary-General, using the available United Nations resources, including the Office of the United Nations Special Coordinator, to establish a register of damage caused to all the natural or legal persons concerned in connection with paragraphs 152 and 153 of the Advisory Opinion;

6. *Decides* to reconvene to consider further actions to bring to an end the illegal situation resulting from the construction of the wall and the associated regime in the case of non-compliance;

7. *Also decides* to adjourn the tenth emergency special session temporarily and to authorize the President of the General Assembly at its most recent session to resume its meeting upon request from Member States.